

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 367e as follows:

6 (215 ILCS 5/367e) (from Ch. 73, par. 979e)

7 Sec. 367e. Continuation of Group Hospital, Surgical and
8 Major Medical Coverage After Termination of Employment or
9 Membership. A group policy delivered, issued for delivery,
10 renewed or amended in this state which insures employees or
11 members for hospital, surgical or major medical insurance on an
12 expense incurred or service basis, other than for specific
13 diseases or for accidental injuries only, shall provide that
14 employees or members whose insurance under the group policy
15 would otherwise terminate because of termination of employment
16 or membership or because of a reduction in hours below the
17 minimum required by the group plan shall be entitled to
18 continue their hospital, surgical and major medical insurance
19 under that group policy, for themselves and their eligible
20 dependents, subject to all of the group policy's terms and
21 conditions applicable to those forms of insurance and to the
22 following conditions:

23 1. Continuation shall only be available to an employee

1 or member who has been continuously insured under the group
2 policy (and for similar benefits under any group policy
3 which it replaced) during the entire 3 months period ending
4 with such termination or reduction in hours below the
5 minimum required by the group plan. With respect to an
6 employee or member who is involuntarily terminated between
7 September 1, 2008 and December 31, 2009, continuation shall
8 be available if the employee or member was insured under
9 the group policy on the day prior to the termination.

10 2. Continuation shall not be available for any person
11 who is covered by Medicare, except for those individuals
12 who have been covered under a group Medicare supplement
13 policy. Neither shall continuation be available for any
14 person who is covered by any other insured or uninsured
15 plan which provides hospital, surgical or medical coverage
16 for individuals in a group and under which the person was
17 not covered immediately prior to such termination or
18 reduction in hours below the minimum required by the group
19 plan or who exercises his conversion privilege under the
20 group policy.

21 3. Continuation need not include dental, vision care,
22 prescription drug benefits, disability income, specified
23 disease, or similar supplementary benefits which are
24 provided under the group policy in addition to its
25 hospital, surgical or major medical benefits.

26 4. Within 10 days after the employee's or member's ~~Upon~~

1 termination or reduction in hours below the minimum
2 required by the group plan written notice of continuation
3 shall be presented to the employee or member by the
4 employer. If the employee or member is unavailable, written
5 notice shall be ~~or~~ mailed by the employer to the last known
6 address of the employee or member within 10 days after the
7 employee's or member's termination or reduction in hours
8 below the minimum required by the group plan. The employer
9 shall also send a copy of the notice to the insurer. An
10 employee or member who wishes continuation of coverage must
11 request such continuation in writing within the 30 day
12 ~~ten-day~~ period following the later of: (i) the date of such
13 termination or reduction in hours below the minimum
14 required by the group plan, or (ii) the date the employee
15 is presented or mailed ~~given~~ written notice of the right of
16 continuation by either the employer or the group
17 policyholder. In no event, however, may the employee or
18 member elect continuation more than 60 days after the date
19 of such termination or reduction in hours below the minimum
20 required by the group plan. Written notice of continuation
21 presented to the employee or member by the policyholder, or
22 mailed by the policyholder to the last known address of the
23 employee, shall constitute the giving of notice for the
24 purpose of this provision.

25 The insurer shall not deny coverage to the employee or
26 member due to the employer's failure to provide notice

1 pursuant to this Section to the employee or member. Until
2 January 1, 2010, in the event the employee or member
3 contacts the insurer regarding continuation rights and
4 advises that notice has not been provided by the employer
5 or group policyholder, the insurer shall provide a written
6 explanation to the employee or member of the employee's or
7 member's continuation rights pursuant to this Section.

8 4a. Unless contrary to the provisions of, or any rules
9 promulgated pursuant to, Section 3001(a)(7) of Title III of
10 Division B of the federal American Recovery and
11 Reinvestment Act of 2009, with respect to employees or
12 members of health plans that are subject solely to State
13 continuation coverage and who are terminated or whose
14 reduction in hours below the minimum required by the group
15 occurs between the effective date of this amendatory Act of
16 the 96th General Assembly and December 31, 2009, the notice
17 requirements of this Section are not satisfied unless
18 notice is presented or mailed to the employee or member by
19 the insurer informing the employee or member of the
20 availability of premium reduction with respect to such
21 coverage under the American Recovery and Reinvestment Act
22 of 2009. Such written notice shall conform to all
23 applicable requirements set forth in Section 3001(a)(7) of
24 Title III of Division B of the federal American Recovery
25 and Reinvestment Act of 2009. The Department shall publish
26 models for the notification that shall be provided by

1 insurers pursuant to this paragraph 4a.

2 4b. Unless contrary to the provisions of, or any rules
3 promulgated pursuant to, Section 3001(a)(7) of Title III of
4 Division B of the federal American Recovery and
5 Reinvestment Act of 2009, with respect to employees or
6 members of health plans that are subject solely to State
7 continuation coverage who were terminated or whose
8 reduction in hours below the minimum required by the group
9 occurred between September 1, 2008 and the effective date
10 of this amendatory Act of the 96th General Assembly and who
11 have an election of continuation of coverage pursuant to
12 this Section in effect, notice shall be presented or mailed
13 to the employee or member by the insurer informing the
14 employee or member of the availability of premium reduction
15 with respect to such coverage under the federal American
16 Recovery and Reinvestment Act of 2009. Such written notice
17 shall conform to all applicable requirements set forth in
18 Section 3001(a)(7) of Title III of Division B of the
19 federal American Recovery and Reinvestment Act of 2009 and
20 shall be presented or mailed to the employee or member
21 within 14 days of the effective date of this amendatory Act
22 of the 96th General Assembly. The Department shall publish
23 models for the notification that shall be provided by
24 insurers pursuant to this paragraph 4b.

25 5. An employee or member electing continuation must pay
26 to the group policyholder or his employer, on a monthly

1 basis in advance, the total amount of premium required by
2 the insurer, including that portion of the premium
3 contributed by the policyholder or employer, if any, but
4 not more than the group rate for the insurance being
5 continued with appropriate reduction in premium for any
6 supplementary benefits which have been discontinued under
7 paragraph (3) of this Section. The premium rate required by
8 the insurer shall be the applicable premium required on the
9 due date of each payment.

10 6. Continuation of insurance under the group policy for
11 any person shall terminate when he becomes eligible for
12 Medicare or is covered by any other insured or uninsured
13 plan which provides hospital, surgical or medical coverage
14 for individuals in a group and under which the person was
15 not covered immediately prior to such termination or
16 reduction in hours below the minimum required by the group
17 plan as provided in condition 2 above or, if earlier, at
18 the first to occur of the following:

19 (a) The date 12 ~~9~~ months after the date the
20 employee's or member's insurance under the policy
21 would otherwise have terminated because of termination
22 of employment or membership or reduction in hours below
23 the minimum required by the group plan.

24 (b) If the employee or member fails to make timely
25 payment of a required contribution, the end of the
26 period for which contributions were made.

1 (c) The date on which the group policy is
2 terminated or, in the case of an employee, the date his
3 employer terminates participation under the group
4 policy. However, if this (c) applies and the coverage
5 ceasing by reason of such termination is replaced by
6 similar coverage under another group policy, the
7 following shall apply:

8 (i) The employee or member shall have the right
9 to become covered under that other group policy,
10 for the balance of the period that he would have
11 remained covered under the prior group policy in
12 accordance with condition 6 had a termination
13 described in this (c) not occurred.

14 (ii) The prior group policy shall continue to
15 provide benefits to the extent of its accrued
16 liabilities and extensions of benefits as if the
17 replacement had not occurred.

18 7. A notification of the continuation privilege shall
19 be included in each certificate of coverage.

20 8. Continuation shall not be available for any employee
21 who was discharged because of the commission of a felony in
22 connection with his work, or because of theft in connection
23 with his work, for which the employer was in no way
24 responsible; provided the employee admitted his commission
25 of the felony or theft or such act has resulted in a
26 conviction or order of supervision by a court of competent

1 jurisdiction.

2 9. An employee or member without an election of
3 continuation of coverage pursuant to this Section in effect
4 on the effective date of this amendatory Act of the 96th
5 General Assembly may elect continuation pursuant to this
6 paragraph 9 if the employee or member: (i) would be an
7 assistance eligible individual as defined in Section
8 3001(a)(3) of Title III of Division B of the federal
9 American Recovery and Reinvestment Act of 2009, if such an
10 election were in effect and (ii) at the time of termination
11 was eligible for continuation pursuant to paragraphs 1 and
12 2 of this Section.

13 Unless contrary to the provisions of, or any rules
14 promulgated pursuant to, Section 3001(a)(7) of Title III of
15 Division B of the federal American Recovery and
16 Reinvestment Act of 2009, written notice of continuation
17 pursuant to this paragraph 9 shall be presented to the
18 employee or member by the insurer or mailed by the insurer
19 to the last known address of the employee or member within
20 30 days after the effective date of this amendatory Act of
21 the 96th General Assembly. Such written notice shall
22 conform to all applicable requirements set forth in Section
23 3001(a)(7) of Title III of Division B of the federal
24 American Recovery and Reinvestment Act of 2009. The
25 Department shall publish models for the notification that
26 shall be provided by insurers pursuant to this paragraph 9.

1 An employee or member electing continuation of
2 coverage under this paragraph 9 must request such
3 continuation in writing within 60 days after the date the
4 employee or member receives written notice of the right of
5 continuation by the insurer.

6 Continuation of coverage elected pursuant to this
7 paragraph 9 shall commence with the first period of
8 coverage beginning on or after February 17, 2009, the
9 effective date of the federal American Recovery and
10 Reinvestment Act of 2009, and shall not extend beyond the
11 period of continuation that would have been required if the
12 coverage had been elected pursuant to paragraph 4 of this
13 Section.

14 With respect to an employee or member who elects
15 continuation of coverage under this paragraph 9, the period
16 beginning on the date of the employee's or member's
17 involuntary termination of employment and ending on the
18 date of the first period of coverage on or after February
19 17, 2009 shall be disregarded for purposes of determining
20 the 63-day period referred to in Section 20 of the Illinois
21 Health Insurance Portability and Accountability Act.

22 The requirements of this amendatory Act of 1983 shall apply
23 to any group policy as defined in this Section, delivered or
24 issued for delivery on or after 180 days following the
25 effective date of this amendatory Act of 1983.

26 The requirements of this amendatory Act of 1985 shall apply

1 to any group policy as defined in this Section, delivered,
2 issued for delivery, renewed or amended on or after 180 days
3 following the effective date of this amendatory Act of 1985.
4 (Source: P.A. 93-477, eff. 1-1-04.)

5 Section 10. The Health Maintenance Organization Act is
6 amended by changing Section 4-9.2 as follows:

7 (215 ILCS 125/4-9.2) (from Ch. 111 1/2, par. 1409.2-2)

8 Sec. 4-9.2. Continuation of group HMO coverage after
9 termination of employee or membership. A group contract
10 delivered, issued for delivery, renewed, or amended in this
11 State that covers employees or members for health care services
12 shall provide that employees or members whose coverage under
13 the group contract would otherwise terminate because of
14 termination of employment or membership or because of a
15 reduction in hours below the minimum required by the group
16 contract shall be entitled to continue their coverage under
17 that group contract, for themselves and their eligible
18 dependents, subject to all of the group contract's terms and
19 conditions applicable to those forms of coverage and to the
20 following conditions:

21 (1) Continuation shall only be available to an employee
22 or member who has been continuously covered under the group
23 contract (and for similar benefits under any group contract
24 that it replaced) during the entire 3 month period ending

1 with the termination of employment or membership or
2 reduction in hours below the minimum required by the group
3 contract. With respect to an employee or member who is
4 involuntarily terminated between September 1, 2008 and
5 December 31, 2009, continuation shall be available if the
6 employee or member was covered under the group contract the
7 day prior to such termination.

8 (2) Continuation shall not be available for any
9 enrollee who is covered by Medicare, except for those
10 individuals who have been covered under a group Medicare
11 supplement policy. Continuation shall not be available for
12 any enrollee who is covered by any other insured or
13 uninsured plan that provides hospital, surgical, or
14 medical coverage for individuals in a group and under which
15 the enrollee was not covered immediately before
16 termination or reduction in hours below the minimum
17 required by the group contract or who exercises his or her
18 conversion privilege under the group policy.

19 (3) Continuation need not include dental, vision care,
20 prescription drug, or similar supplementary benefits that
21 are provided under the group contract in addition to its
22 basic health care services.

23 (4) Within 10 days after the employee's or member's
24 ~~Upon~~ termination or reduction in hours below the minimum
25 required by the group contract, written notice of
26 continuation shall be presented to the employee or member

1 by the employer. If the employee or member is unavailable,
2 written notice shall be ~~or~~ mailed by the employer to the
3 last known address of the employee or member within 10 days
4 after the employee's or member's termination or reduction
5 in hours below the minimum required by the group plan. The
6 employer shall also send a copy of the notice to the HMO.

7 An employee or member who wishes continuation of coverage
8 must request continuation in writing within the 30 ~~10~~ day
9 period following the later of (i) the date of termination
10 or reduction in hours below the minimum required by the
11 group contract or (ii) the date the employee is presented
12 or mailed ~~given~~ written notice of the right of continuation
13 by either the employer or the group policyholder. In no
14 event, however, shall the employee or member elect
15 continuation more than 60 days after the date of
16 termination or reduction in hours below the minimum
17 required by the group contract. Written notice of
18 continuation presented to the employee or member by the
19 policyholder, or mailed by the policyholder to the last
20 known address of the employee, shall constitute the giving
21 of notice for the purpose of this paragraph.

22 The HMO shall not deny coverage to the employee or
23 member due to the employer's failure to provide notice
24 pursuant to this Section to the employee or member. Until
25 January 1, 2010, in the event the employee or member
26 contacts the HMO regarding continuation rights and advises

1 that notice has not been provided by the employer or group
2 policyholder, the HMO shall provide a written explanation
3 to the employee or member of the employee's or member's
4 continuation rights pursuant to this Section.

5 (4a) Unless contrary to the provisions of, or any rules
6 promulgated pursuant to, Section 3001(a) (7) of Title III of
7 Division B of the federal American Recovery and
8 Reinvestment Act of 2009, with respect to employees or
9 members of health plans that are subject solely to State
10 continuation coverage and who are terminated or whose
11 reduction in hours below the minimum required by the group
12 occurs between the effective date of this amendatory Act of
13 the 96th General Assembly and December 31, 2009, the notice
14 requirements of this Section are not satisfied unless
15 notice is presented or mailed to the employee or member by
16 the HMO informing the employee or member of the
17 availability of premium reduction with respect to such
18 coverage under the federal American Recovery and
19 Reinvestment Act of 2009. Such written notice shall conform
20 to all applicable requirements set forth in Section
21 3001(a) (7) of Title III of Division B of the federal
22 American Recovery and Reinvestment Act of 2009. The
23 Department shall publish models for the notification that
24 shall be provided by HMOs pursuant to this paragraph (4a).

25 (4b) Unless contrary to the provisions of, or any rules
26 promulgated pursuant to, Section 3001(a) (7) of Title III of

1 Division B of the federal American Recovery and
2 Reinvestment Act of 2009, with respect to employees or
3 members of health plans that are subject solely to State
4 continuation coverage who were terminated or whose
5 reduction in hours below the minimum required by the group
6 occurred between September 1, 2008, and the effective date
7 of this amendatory Act of the 96th General Assembly and who
8 have an election of continuation of coverage pursuant to
9 this Section in effect, notice shall be presented or mailed
10 to the employee or member by the HMO informing the employee
11 or member of the availability of premium reduction with
12 respect to such coverage under the federal American
13 Recovery and Reinvestment Act of 2009. Such written notice
14 shall conform to all applicable requirements set forth in
15 Section 3001(a)(7) of Title III of Division B of the
16 federal American Recovery and Reinvestment Act of 2009 and
17 shall be presented or mailed to the employee or member
18 within 14 days of the effective date of this amendatory Act
19 of the 96th General Assembly. The Department shall publish
20 models for the notification that shall be provided by HMOs
21 pursuant to this paragraph (4b).

22 (5) An employee or member electing continuation must
23 pay to the group policyholder or his employer, on a monthly
24 basis in advance, the total amount of premium required by
25 the HMO, including that portion of the premium contributed
26 by the policyholder or employer, if any, but not more than

1 the group rate for the coverage being continued with
2 appropriate reduction in premium for any supplementary
3 benefits that have been discontinued under paragraph (3) of
4 this Section. The premium rate required by the HMO shall be
5 the applicable premium required on the due date of each
6 payment.

7 (6) Continuation of coverage under the group contract
8 for any person shall terminate when the person becomes
9 eligible for Medicare or is covered by any other insured or
10 uninsured plan that provides hospital, surgical, or
11 medical coverage for individuals in a group and under which
12 the person was not covered immediately before termination
13 or reduction in hours below the minimum required by the
14 group contract as provided in paragraph (2) of this Section
15 or, if earlier, at the first to occur of the following:

16 (a) The expiration of 12 ~~9~~ months after the
17 employee's or member's coverage because of termination
18 of employment or membership or reduction in hours below
19 the minimum required by the group contract.

20 (b) If the employee or member fails to make timely
21 payment of a required contribution, the end of the
22 period for which contributions were made.

23 (c) The date on which the group contract is
24 terminated or, in the case of an employee, the date his
25 or her employer terminates participation under the
26 group contract. If, however, this paragraph applies

1 and the coverage ceasing by reason of termination is
2 replaced by similar coverage under another group
3 contract, then (i) the employee or member shall have
4 the right to become covered under the replacement group
5 contract for the balance of the period that he or she
6 would have remained covered under the prior group
7 contract in accordance with paragraph (6) had a
8 termination described in this item (c) not occurred and
9 (ii) the prior group contract shall continue to provide
10 benefits to the extent of its accrued liabilities and
11 extensions of benefits as if the replacement had not
12 occurred.

13 (7) A notification of the continuation privilege shall
14 be included in each evidence of coverage.

15 (8) Continuation shall not be available for any
16 employee who was discharged because of the commission of a
17 felony in connection with his or her work, or because of
18 theft in connection with his or her work, for which the
19 employer was in no way responsible if the employee (i)
20 admitted to committing the felony or theft or (ii) was
21 convicted or placed under supervision by a court of
22 competent jurisdiction.

23 (9) An employee or member without an election of
24 continuation of coverage pursuant to this Section in effect
25 on the effective date of this amendatory Act of the 96th
26 General Assembly may elect continuation pursuant to this

1 paragraph (9) if the employee or member: (i) would be an
2 assistance eligible individual as defined in Section
3 3001(a)(3) of Title III of Division B of the federal
4 American Recovery and Reinvestment Act of 2009 if such an
5 election were in effect and (ii) at the time of termination
6 was eligible for continuation pursuant to paragraphs (1)
7 and (2) of this Section.

8 Unless contrary to the provisions of, or any rules
9 promulgated pursuant to, Section 3001(a)(7) of Title III of
10 Division B of the federal American Recovery and
11 Reinvestment Act of 2009, written notice of continuation
12 pursuant to this paragraph (9) shall be presented to the
13 employee or member by the HMO or mailed by the HMO to the
14 last known address of the employee or member within 30 days
15 after the effective date of this amendatory Act of the 96th
16 General Assembly. The written notice shall conform to all
17 applicable requirements set forth in Section 3001(a)(7) of
18 Title III of Division B of the federal American Recovery
19 and Reinvestment Act of 2009. The Department shall publish
20 models for the notification that shall be provided by HMOs
21 pursuant to this paragraph (9).

22 An employee or member electing continuation of
23 coverage under this paragraph (9) must request such
24 continuation in writing within 60 days after the date the
25 employee or member receives written notice of the right of
26 continuation by the HMO.

1 Continuation of coverage elected pursuant to this
2 paragraph (9) shall commence with the first period of
3 coverage beginning on or after February 17, 2009, the
4 effective date of the federal American Recovery and
5 Reinvestment Act of 2009, and shall not extend beyond the
6 period of continuation that would have been required if the
7 coverage had been elected pursuant to paragraph (4) of this
8 Section.

9 With respect to an employee or member who elects
10 continuation of coverage under this paragraph (9), the
11 period beginning on the date of the employee or member's
12 involuntary termination of employment and ending on the
13 date of the first period of coverage on or after February
14 17, 2009 shall be disregarded for purposes of determining
15 the 63-day period referred to in Section 20 of the Illinois
16 Health Insurance Portability and Accountability Act.

17 The requirements of this amendatory Act of 1992 shall apply
18 to any group contract, as defined in this Section, delivered or
19 issued for delivery on or after 180 days following the
20 effective date of this amendatory Act of 1992.

21 (Source: P.A. 93-477, eff. 1-1-04.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.